

**ASSEMBLY BILL**

**No. 1423**

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**Introduced by Committee on Revenue and Taxation (Assembly Members Perea (Chair), Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)**

March 22, 2011

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An act to amend Sections 6353, 6356.5, 6356.6, and 6358.5 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1423, as introduced, Committee on Revenue and Taxation. Sales and use taxes: exemptions.

Existing laws impose a sales tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law provides various exemptions from the taxes imposed by those laws, including partial exemptions for the sale of, or the storage, use, or other consumption of, liquified petroleum gas, farm equipment and machinery, timber harvesting equipment and machinery, and racehorse breeding stock, when purchased for use for specified activities by a qualified person, as defined. Existing law provides that those exemptions became effective September 1, 2001, unless the State Board of Equalization determined that implementation by that date was not feasible, in which case the board was required to report to the Legislature regarding the reason for delayed implementation and to implement the exemption no later than October 1, 2001. The State Board of Equalization adopted regulations

implementing these exemptions, which were operative September 1, 2001.

This bill would delete the provisions relating to an authorization for a delayed implementation in 2001 of these exemptions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6353 of the Revenue and Taxation Code  
2 is amended to read:

3 6353. There are exempted from the taxes imposed by this part  
4 the gross receipts derived from the sales, furnishing, or service of  
5 and the storage, use, or other consumption in this state of, all of  
6 the following:

7 (a) Gas, electricity, and water, including steam and geothermal  
8 steam, brines, and heat, when delivered to consumers through  
9 mains, lines, or pipes.

10 (b) (1) Liquefied petroleum gas, delivered to a qualified  
11 residence by the seller, that is sold for household use in the  
12 qualified residence, or liquefied petroleum gas that is purchased  
13 for use by a qualified person to be used in producing and harvesting  
14 agricultural products; provided, in either case, the liquefied  
15 petroleum gas is delivered into a tank with a storage capacity for  
16 liquefied petroleum gas that is equal to or greater than 30 gallons.  
17 This subdivision may not be construed to provide any exemption  
18 from any tax levied by a city, county, or city and county pursuant  
19 to Section 7284.3, or any successor to that section.

20 (2) For purposes of this subdivision:

21 (A) "Qualified residence" means a primary residence, not  
22 serviced by gas mains and pipes.

23 (B) "Qualified person" means any person engaged in a line of  
24 business described in Codes 0111 to 0291, inclusive, of the  
25 Standard Industrial Classification Manual published by the United  
26 States Office of Management and Budget, 1987 Edition, and any  
27 other person that assists that person in the lines of business  
28 described in this paragraph in producing and harvesting agricultural  
29 products.

30 (c) Water, when sold to an individual in bulk quantities of 50  
31 gallons or more, for general household use in his or her residence

1 if the residence is located in an area not serviced by mains, lines  
2 or pipes.

3 (d) Exhaust steam, waste steam, heat, or resultant energy,  
4 produced in connection with cogeneration technology, as defined  
5 in Section 25134 of the Public Resources Code.

6 (e) The exemptions provided by subdivision (b) shall be  
7 effective starting September 1, 2001, ~~unless the State Board of~~  
8 ~~Equalization determines that implementation by that date is not~~  
9 ~~feasible, in which case the board shall, on or before that date, report~~  
10 ~~to the Legislature regarding the reasons why it must delay~~  
11 ~~implementation, and shall thereafter implement these exemptions~~  
12 ~~no later than October 1, 2001.~~

13 SEC. 2. Section 6356.5 of the Revenue and Taxation Code is  
14 amended to read:

15 6356.5. (a) There are exempted from the taxes imposed by  
16 this part the gross receipts from the sale of, and the storage and  
17 use of, or other consumption in this state of, farm equipment and  
18 machinery, and the parts thereof, purchased for use by a qualified  
19 person to be used primarily in producing and harvesting agricultural  
20 products.

21 (b) For purposes of this section, both of the following shall  
22 apply:

23 (1) "Qualified person" means any person engaged in a line of  
24 business described in Codes 0111 to 0291, inclusive, of the  
25 Standard Industrial Classification Manual published by the United  
26 States Office of Management and Budget, 1987 Edition, and any  
27 other person that uses farm equipment and machinery to assist this  
28 person in the lines of business described in this paragraph in  
29 producing and harvesting agricultural products.

30 (2) "Farm equipment and machinery" means implements of  
31 husbandry, as defined in Section 411.

32 (c) (1) Notwithstanding any provision of the Bradley-Burns  
33 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
34 with Section 7200)) or the Transactions and Use Tax Law (Part  
35 1.6 (commencing with Section 7251)), the exemption established  
36 by this section does not apply with respect to any tax levied by a  
37 county, city, or district pursuant to, or in accordance with, either  
38 of those laws.

39 (2) Notwithstanding subdivision (a), the exemption established  
40 by this section does not apply with respect to any tax levied

1 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35  
2 of Article XIII of the California Constitution.

3 (d) The exemption provided by this section shall be effective  
4 starting September 1, 2001, ~~unless the State Board of Equalization~~  
5 ~~determines that implementation by that date is not feasible, in~~  
6 ~~which case the board shall, on or before that date, report to the~~  
7 ~~Legislature regarding the reasons why it must delay~~  
8 ~~implementation, and shall thereafter implement the exemption~~  
9 ~~provided by this section no later than October 1, 2001.~~

10 SEC. 3. Section 6356.6 of the Revenue and Taxation Code is  
11 amended to read:

12 6356.6. (a) There are exempted from the taxes imposed by  
13 this part the gross receipts from the sale of, and the storage and  
14 use of, or other consumption in this state of, equipment and  
15 machinery designed primarily for off-road use in commercial  
16 timber harvesting operations, and the parts thereof, that is  
17 purchased for use by a qualified person to be used primarily in  
18 harvesting timber.

19 (b) The State Board of Equalization may adopt emergency  
20 regulations to specify equipment and machinery exempted by this  
21 section, and may revise those regulations from time to time.

22 (c) For purposes of this section, “qualified person” means any  
23 person engaged in commercial timber harvesting.

24 (d) (1) Notwithstanding any provision of the Bradley-Burns  
25 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
26 with Section 7200)) or the Transactions and Use Tax Law (Part  
27 1.6 (commencing with Section 7251)), the exemption established  
28 by this section does not apply with respect to any tax levied by a  
29 county, city, or district pursuant to, or in accordance with, either  
30 of those laws.

31 (2) Notwithstanding subdivision (a), the exemption established  
32 by this section does not apply with respect to any tax levied  
33 pursuant to Section 6051.2 and 6201.2, or pursuant to Section 35  
34 of Article XIII of the California Constitution.

35 (e) The exemption provided by this section shall be effective  
36 starting September 1, 2001, ~~unless the State Board of Equalization~~  
37 ~~determines that implementation by that date is not feasible, in~~  
38 ~~which case the board shall, on or before that date, report to the~~  
39 ~~Legislature regarding the reasons why it must delay~~

1 ~~implementation, and shall thereafter implement the exemption~~  
2 ~~provided by this section no later than October 1, 2001.~~

3 SEC. 4. Section 6358.5 of the Revenue and Taxation Code is  
4 amended to read:

5 6358.5. (a) (1) There are exempted from the taxes imposed  
6 by this part, the gross receipts from the sale in this state of, and  
7 the storage, use, or other consumption in this state of, any racehorse  
8 breeding stock.

9 (2) For purposes of this section “racehorse breeding stock”  
10 means a horse that is capable of reproduction and for which the  
11 purchaser states that it is the purchaser’s sole intent to use the horse  
12 for breeding purposes.

13 (b) (1) Notwithstanding any provision of the Bradley-Burns  
14 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
15 with Section 7200)) or the Transactions and Use Tax Law (Part  
16 1.6 (commencing with Section 7251)), the exemption established  
17 by this section does not apply with respect to any tax levied by a  
18 county, city, or district pursuant to, or in accordance with, either  
19 of those laws.

20 (2) The exemption established by this section does not apply  
21 with respect to any tax levied pursuant to either Section 6051.2 or  
22 6201.2, or pursuant to Section 35 of Article XIII of the California  
23 Constitution.

24 (c) The exemption provided by this section shall be effective  
25 starting September 1, 2001, ~~unless the State Board of Equalization~~  
26 ~~determines that implementation by that date is not feasible, in~~  
27 ~~which case the board shall, on or before that date, report to the~~  
28 ~~Legislature regarding the reasons why it must delay~~  
29 ~~implementation, and shall thereafter implement the exemption~~  
30 ~~provided by this section no later than October 1, 2001.~~